

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re:

Timothy D. Maglisco : Case No.15-24285CMB
Patricia A. Maglisco : Chapter 13
Debtor(s) :
Ronda J. Winnecur, Chapter 13 :
Trustee : Related to Document #91
Movant(s) : Hearing Date:
vs. :
U.S. Bank Trust National Association, :
As Trustee for the Tiki Series III Trust :
Respondent(s) :

TRUSTEE'S REPLY TO RESPONSE TO TRUSTEE'S NOTICE OF FINAL CURE
MORTGAGE PAYMENT

Ronda J. Winnecur, Chapter 13 Trustee, by her undersigned counsel, respectfully represents the following:

1. On 9/12/2019, the Trustee's Notice of Final Cure as to the mortgage of US Bank Trust National Association, (No Claim Filed) was filed, showing that the debtor's post-petition mortgage payments were paid by the Trustee through May 2019.
2. On 9/23/2019, US Bank Trust National Association filed its response to the Trustee's Notice of Final Cure, asserting "Creditor states that the debtor(s) are current on all post-petition payments consistent with § 1322(b)(5) of the Bankruptcy Code, including all fees, charges, expenses, escrow, and costs."
3. The Response also alleges \$3,327.96 is due and owing due to an escrow shortage.
4. The Trustee disbursed payments in accordance with the debtor's Confirmed Plan:

Total Total Months

\$ 35,197.68 42

Payment	Months	Subtotal	Start	End
\$ 716.30	12	\$ 8,595.60	12/1/2015	11/30/2016
\$ 881.78	12	\$ 10,581.36	12/1/2016	11/30/2017
\$ 890.04	18	\$ 16,020.72	12/1/2017	05/31/2019
\$ 1,056.64	0	\$	06/1/2019	05/31/2019

5. The Trustee's records indicate that payments are current through May 2019. Trustee paid 42 payments, for December 2015 through May 2019. Debtors were granted permission to pay off their plan earlier than the original plan term projected. The wage order was terminated on June 21, 2019. Debtors were to have resumed paying their long-term debts directly beginning June 2019.

6. US Bank Trust National Association's Response is required by Rule 3002.1(g):

"(g) Response to Notice of Final Cure Payment. Within 21 days after service of the notice under subdivision (f) of this rule, the holder shall file and serve on the debtor, debtor's counsel, and the trustee a statement indicating (1) whether it agrees that the debtor has paid in full the amount required to cure the default on the claim, and (2) whether the debtor is otherwise current on all payments consistent with § 1322(b)(5) of the Code. The statement shall itemize the required cure or post-petition amounts, if any, that the holder contends remain unpaid as of the date of the statement. The statement shall be filed as a supplement to the holder's proof of claim and is not subject to Rule 3001(f)."

[Emphasis added]

7. Respondent agrees that the next post-petition payment following the Trustee's distribution was due on July 1, 2019.

8. However, the response indicates that the escrow account is negative \$3,327.96. It would appear that the escrow shortage coincidentally came to light with an escrow analysis performed near or at the time the debtors were to have resumed their direct payments, prompting a notice of payment change increasing the mortgage payment effective June 1, 2019.

9. Thus, the facts averred in the Response in no way demonstrate a basis for disagreement with the facts contained in the Trustee's Notice of Final Cure, which remains accurate.

10. Presumably, the \$3,327.96 is not immediately due, but rather will be paid through a higher monthly mortgage payment moving forward.

WHEREFORE, the Chapter 13 Trustee requests that the Court:

- A. Determine that the Trustee has disbursed all payments in accordance with the Debtor's Chapter 13 Plan through May 2019 as to the mortgage held by US Bank Trust National Association.
- B. Order that US Bank Trust National Association is prohibited from adding any fees or other charges to the debtor's account in connection with the filing of its Response, or for attending any hearing in this matter.

RONDA J. WINNECOUR,
CHAPTER 13 TRUSTEE

Date: 10/03/19

by /s/ Jana S. Pail
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U.S. Bank Trust National Association,	:	
As Trustee for the Tiki Series III Trust	:	
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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd of October 2019, I served one true and correct copy of the foregoing document on the following parties in interest by United States first-class mail, postage prepaid, addressed as follows:

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Assistant U.S. Trustee
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Pittsburgh PA. 15222

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/s/Dianne DeFoor
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